

AMENDED IN SENATE AUGUST 19, 2015

AMENDED IN SENATE MAY 28, 2015

AMENDED IN ASSEMBLY MARCH 24, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 1211

Introduced by Assembly Member Maienschein

February 27, 2015

An act to amend Section 1250 of the Health and Safety Code, relating to health ~~facilities~~, *facilities, and declaring the urgency thereof, to take effect immediately.*

LEGISLATIVE COUNSEL’S DIGEST

AB 1211, as amended, Maienschein. Health care facilities: congregate living health facility.

Existing law provides for the licensure and regulation by the State Department of Public Health of health facilities, including congregate living health facilities. A violation of these provisions is a misdemeanor. For this purpose, existing law defines “congregate living health facility” as a residential home with a capacity of no more than 12 beds, that provides inpatient care and skilled nursing care on a recurring, intermittent, extended, or continuous basis.

This bill would include in the definition of congregate living health facility a residential home with a capacity of no more than 18 beds that provides inpatient and skilled nursing care, as specified. By ~~increasing~~ *changing* the definition of a crime, this bill would impose a state-mandated local program. The bill would make other technical, nonsubstantive changes.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: ~~majority~~^{2/3}. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1250 of the Health and Safety Code is
2 amended to read:

3 1250. As used in this chapter, “health facility” means a facility,
4 place, or building that is organized, maintained, and operated for
5 the diagnosis, care, prevention, and treatment of human illness,
6 physical or mental, including convalescence and rehabilitation and
7 including care during and after pregnancy, or for any one or more
8 of these purposes, for one or more persons, to which the persons
9 are admitted for a 24-hour stay or longer, and includes the
10 following types:

11 (a) “General acute care hospital” means a health facility having
12 a duly constituted governing body with overall administrative and
13 professional responsibility and an organized medical staff that
14 provides 24-hour inpatient care, including the following basic
15 services: medical, nursing, surgical, anesthesia, laboratory,
16 radiology, pharmacy, and dietary services. A general acute care
17 hospital may include more than one physical plant maintained and
18 operated on separate premises as provided in Section 1250.8. A
19 general acute care hospital that exclusively provides acute medical
20 rehabilitation center services, including at least physical therapy,
21 occupational therapy, and speech therapy, may provide for the
22 required surgical and anesthesia services through a contract with
23 another acute care hospital. In addition, a general acute care
24 hospital that, on July 1, 1983, provided required surgical and
25 anesthesia services through a contract or agreement with another
26 acute care hospital may continue to provide these surgical and
27 anesthesia services through a contract or agreement with an acute
28 care hospital. The general acute care hospital operated by the State

1 Department of Developmental Services at Agnews Developmental
2 Center may, until June 30, 2007, provide surgery and anesthesia
3 services through a contract or agreement with another acute care
4 hospital. Notwithstanding the requirements of this subdivision, a
5 general acute care hospital operated by the Department of
6 Corrections and Rehabilitation or the Department of Veterans
7 Affairs may provide surgery and anesthesia services during normal
8 weekday working hours, and not provide these services during
9 other hours of the weekday or on weekends or holidays, if the
10 general acute care hospital otherwise meets the requirements of
11 this section.

12 A “general acute care hospital” includes a “rural general acute
13 care hospital.” However, a “rural general acute care hospital” shall
14 not be required by the department to provide surgery and anesthesia
15 services. A “rural general acute care hospital” shall meet either of
16 the following conditions:

17 (1) The hospital meets criteria for designation within peer group
18 six or eight, as defined in the report entitled Hospital Peer Grouping
19 for Efficiency Comparison, dated December 20, 1982.

20 (2) The hospital meets the criteria for designation within peer
21 group five or seven, as defined in the report entitled Hospital Peer
22 Grouping for Efficiency Comparison, dated December 20, 1982,
23 and has no more than 76 acute care beds and is located in a census
24 dwelling place of 15,000 or less population according to the 1980
25 federal census.

26 (b) “Acute psychiatric hospital” means a health facility having
27 a duly constituted governing body with overall administrative and
28 professional responsibility and an organized medical staff that
29 provides 24-hour inpatient care for persons with mental health
30 disorders or other patients referred to in Division 5 (commencing
31 with Section 5000) or Division 6 (commencing with Section 6000)
32 of the Welfare and Institutions Code, including the following basic
33 services: medical, nursing, rehabilitative, pharmacy, and dietary
34 services.

35 (c) (1) “Skilled nursing facility” means a health facility that
36 provides skilled nursing care and supportive care to patients whose
37 primary need is for availability of skilled nursing care on an
38 extended basis.

39 (2) “Skilled nursing facility” includes a “small house skilled
40 nursing facility (SHSNF),” as defined in Section 1323.5.

(d) “Intermediate care facility” means a health facility that provides inpatient care to ambulatory or nonambulatory patients who have recurring need for skilled nursing supervision and need supportive care, but who do not require availability of continuous skilled nursing care.

(e) “Intermediate care facility/developmentally disabled habilitative” means a facility with a capacity of 4 to 15 beds that provides 24-hour personal care, habilitation, developmental, and supportive health services to 15 or fewer persons with developmental disabilities who have intermittent recurring needs for nursing services, but have been certified by a physician and surgeon as not requiring availability of continuous skilled nursing care.

(f) “Special hospital” means a health facility having a duly constituted governing body with overall administrative and professional responsibility and an organized medical or dental staff that provides inpatient or outpatient care in dentistry or maternity.

(g) “Intermediate care facility/developmentally disabled” means a facility that provides 24-hour personal care, habilitation, developmental, and supportive health services to persons with developmental disabilities whose primary need is for developmental services and who have a recurring but intermittent need for skilled nursing services.

(h) “Intermediate care facility/developmentally disabled-nursing” means a facility with a capacity of 4 to 15 beds that provides 24-hour personal care, developmental services, and nursing supervision for persons with developmental disabilities who have intermittent recurring needs for skilled nursing care but have been certified by a physician and surgeon as not requiring continuous skilled nursing care. The facility shall serve medically fragile persons with developmental disabilities or who demonstrate significant developmental delay that may lead to a developmental disability if not treated.

(i) (1) “Congregate living health facility” means a residential home with a capacity, except as provided in paragraph (4), of no more than 18 beds, that provides inpatient care, including the following basic services: medical supervision, 24-hour skilled nursing and supportive care, pharmacy, dietary, social, recreational, and at least one type of service specified in paragraph (2). The primary need of congregate living health facility residents shall

1 be for availability of skilled nursing care on a recurring,
2 intermittent, extended, or continuous basis. This care is generally
3 less intense than that provided in general acute care hospitals but
4 more intense than that provided in skilled nursing facilities.

5 (2) Congregate living health facilities shall provide one or more
6 of the following services:

7 (A) Services for persons who are mentally alert, persons with
8 physical disabilities, who may be ventilator dependent.

9 (B) Services for persons who have a diagnosis of terminal
10 illness, a diagnosis of a life-threatening illness, or both. Terminal
11 illness means the individual has a life expectancy of six months
12 or less as stated in writing by his or her attending physician and
13 surgeon. A “life-threatening illness” means the individual has an
14 illness that can lead to a possibility of a termination of life within
15 five years or less as stated in writing by his or her attending
16 physician and surgeon.

17 (C) Services for persons who are catastrophically and severely
18 disabled. A person who is catastrophically and severely disabled
19 means a person whose origin of disability was acquired through
20 trauma or nondegenerative neurologic illness, for whom it has
21 been determined that active rehabilitation would be beneficial and
22 to whom these services are being provided. Services offered by a
23 congregate living health facility to a person who is catastrophically
24 disabled shall include, but not be limited to, speech, physical, and
25 occupational therapy.

26 (3) A congregate living health facility license shall specify which
27 of the types of persons described in paragraph (2) to whom a
28 facility is licensed to provide services.

29 (4) (A) A facility operated by a city and county for the purposes
30 of delivering services under this section may have a capacity of
31 59 beds.

32 (B) A congregate living health facility not operated by a city
33 and county servicing persons who are terminally ill, persons who
34 have been diagnosed with a life-threatening illness, or both, that
35 is located in a county with a population of 500,000 or more persons,
36 or located in a county of the 16th class pursuant to Section 28020
37 of the Government Code, may have not more than 25 beds for the
38 purpose of serving persons who are terminally ill.

39 (5) A congregate living health facility shall have a
40 noninstitutional, homelike environment.

(j) (1) “Correctional treatment center” means a health facility operated by the Department of Corrections and Rehabilitation, the Department of Corrections and Rehabilitation, Division of Juvenile Facilities, or a county, city, or city and county law enforcement agency that, as determined by the department, provides inpatient health services to that portion of the inmate population who do not require a general acute care level of basic services. This definition shall not apply to those areas of a law enforcement facility that houses inmates or wards who may be receiving outpatient services and are housed separately for reasons of improved access to health care, security, and protection. The health services provided by a correctional treatment center shall include, but are not limited to, all of the following basic services: physician and surgeon, psychiatrist, psychologist, nursing, pharmacy, and dietary. A correctional treatment center may provide the following services: laboratory, radiology, perinatal, and any other services approved by the department.

(2) Outpatient surgical care with anesthesia may be provided, if the correctional treatment center meets the same requirements as a surgical clinic licensed pursuant to Section 1204, with the exception of the requirement that patients remain less than 24 hours.

(3) Correctional treatment centers shall maintain written service agreements with general acute care hospitals to provide for those inmate physical health needs that cannot be met by the correctional treatment center.

(4) Physician and surgeon services shall be readily available in a correctional treatment center on a 24-hour basis.

(5) It is not the intent of the Legislature to have a correctional treatment center supplant the general acute care hospitals at the California Medical Facility, the California Men’s Colony, and the California Institution for Men. This subdivision shall not be construed to prohibit the Department of Corrections and Rehabilitation from obtaining a correctional treatment center license at these sites.

(k) “Nursing facility” means a health facility licensed pursuant to this chapter that is certified to participate as a provider of care either as a skilled nursing facility in the federal Medicare Program under Title XVIII of the federal Social Security Act (42 U.S.C. Sec. 1395 et seq.) or as a nursing facility in the federal Medicaid

1 Program under Title XIX of the federal Social Security Act (42
2 U.S.C. Sec. 1396 et seq.), or as both.

3 (l) Regulations defining a correctional treatment center described
4 in subdivision (j) that is operated by a county, city, or city and
5 county, the Department of Corrections and Rehabilitation, or the
6 Department of Corrections and Rehabilitation, Division of Juvenile
7 Facilities, shall not become effective prior to, or, if effective, shall
8 be inoperative until January 1, 1996, and until that time these
9 correctional facilities are exempt from any licensing requirements.

10 (m) "Intermediate care facility/developmentally
11 disabled-continuous nursing (ICF/DD-CN)" means a homelike
12 facility with a capacity of four to eight, inclusive, beds that
13 provides 24-hour personal care, developmental services, and
14 nursing supervision for persons with developmental disabilities
15 who have continuous needs for skilled nursing care and have been
16 certified by a physician and surgeon as warranting continuous
17 skilled nursing care. The facility shall serve medically fragile
18 persons who have developmental disabilities or demonstrate
19 significant developmental delay that may lead to a developmental
20 disability if not treated. ICF/DD-CN facilities shall be subject to
21 licensure under this chapter upon adoption of licensing regulations
22 in accordance with Section 1275.3. A facility providing continuous
23 skilled nursing services to persons with developmental disabilities
24 pursuant to Section 14132.20 or 14495.10 of the Welfare and
25 Institutions Code shall apply for licensure under this subdivision
26 within 90 days after the regulations become effective, and may
27 continue to operate pursuant to those sections until its licensure
28 application is either approved or denied.

29 (n) "Hospice facility" means a health facility licensed pursuant
30 to this chapter with a capacity of no more than 24 beds that
31 provides hospice services. Hospice services include, but are not
32 limited to, routine care, continuous care, inpatient respite care, and
33 inpatient hospice care as defined in subdivision (d) of Section
34 1339.40, and is operated by a provider of hospice services that is
35 licensed pursuant to Section 1751 and certified as a hospice
36 pursuant to Part 418 of Title 42 of the Code of Federal Regulations.

37 SEC. 2. No reimbursement is required by this act pursuant to
38 Section 6 of Article XIII B of the California Constitution because
39 the only costs that may be incurred by a local agency or school
40 district will be incurred because this act creates a new crime or

1 infraction, eliminates a crime or infraction, or changes the penalty
2 for a crime or infraction, within the meaning of Section 17556 of
3 the Government Code, or changes the definition of a crime within
4 the meaning of Section 6 of Article XIII B of the California
5 Constitution.

6 *SEC. 3. This act is an urgency statute necessary for the*
7 *immediate preservation of the public peace, health, or safety within*
8 *the meaning of Article IV of the Constitution and shall go into*
9 *immediate effect. The facts constituting the necessity are:*

10 *In order to immediately ensure that eligible patients of*
11 *congregate living health facilities are able to obtain essential care,*
12 *and to enable these facilities to provide care for patients currently*
13 *on a waiting list, it is necessary that this act take effect*
14 *immediately.*